

Senate Study Bill 3035

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
VETERANS AFFAIRS BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the regulation of veterans commemorative
2 property.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 5377DP 82
5 md/rj/8

PAG LIN

1 1 Section 1. Section 37A.1, Code 2007, is amended to read as
1 2 follows:
1 3 37A.1 VETERANS COMMEMORATIVE PROPERTY == PENALTY.
1 4 1. For purposes of this chapter, unless the context
1 5 otherwise requires:
1 6 ~~a. "Cemetery" means as defined in section 523I.102, but~~
1 7 ~~includes pioneer cemeteries. "Cemetery" does not include~~
1 8 ~~religious cemeteries as defined in section 523I.102 that~~
1 9 ~~commenced business prior to July 1, 2005.~~
1 10 ~~b. a. "Department" means the Iowa department of veterans~~
1 11 ~~affairs.~~
1 12 ~~c. b. "Veteran" means a deceased person who served in the~~
1 13 ~~armed forces of the United States during a war in which the~~
1 14 ~~United States was engaged or served full-time in active duty~~
1 15 ~~in a force of an organized state militia, excluding service in~~
1 16 ~~the national guard when in an inactive status.~~
1 17 ~~d. c. "Veterans commemorative property" means any~~
1 18 ~~memorial as defined in section 523I.102, including a~~
1 19 ~~headstone, plaque, statue, urn, decoration, flag holder,~~
1 20 ~~badge, shield, item of memorabilia, or other embellishment,~~
1 21 ~~that meets all of the following criteria:~~
1 22 ~~(1) Is over seventy-five years old.~~
1 23 ~~(2) Identifies identifies or commemorates any veteran or~~
1 24 ~~group of veterans, including any veterans organization or any~~
1 25 ~~military unit, company, battalion, or division.~~
1 26 ~~(3) Has been placed in a cemetery.~~
1 27 ~~e. d. "Veterans organization" means the grand army of the~~
1 28 ~~republic, sons of union veterans of the civil war, sons of~~
1 29 ~~confederate veterans, veterans of foreign wars, disabled~~
1 30 ~~American veterans, united Spanish war veterans, the Jewish war~~
1 31 ~~veterans of the United States, inc., the Catholic war~~
1 32 ~~veterans, inc., American legion, American veterans of World~~
1 33 ~~War II, Italian American war veterans of the United States,~~
1 34 ~~inc., or other corporation or association of veterans.~~
1 35 2. A person who owns or controls ~~a cemetery~~ property where
2 1 any veterans commemorative property has been placed shall not
2 2 sell, trade, or transfer any part of such veterans
2 3 commemorative property unless the department authorizes the
2 4 person to do so. The department may authorize the sale,
2 5 trade, or transfer based upon the following criteria:
2 6 a. The veterans commemorative property is at reasonable
2 7 risk of physically deteriorating so that it will become
2 8 unrecognizable as identifying or commemorating the veteran or
2 9 group of veterans originally identified or commemorated.
2 10 b. The veterans commemorative property is proposed to be
2 11 sold, traded, or transferred to a suitable person that will
2 12 preserve the current condition of the veterans commemorative
2 13 property and place it in a suitable place that will
2 14 commemorate the veteran or group of veterans.
2 15 c. The person needs to sell, trade, or transfer the
2 16 veterans commemorative property to ensure that sufficient
2 17 funds are available to suitably maintain the cemetery where
2 18 the veterans commemorative property is placed, and the
2 19 specific lot, plot, grave, burial place, niche, crypt, or

2 20 other place of interment of such veteran or group of veterans.
2 21 d. The veterans commemorative property that is to be sold,
2 22 traded, or transferred will be replaced at its original site
2 23 by a fitting replacement commemorative property, monument, or
2 24 marker that appropriately identifies and commemorates the
2 25 veteran or group of veterans.

2 26 e. If the person reasonably believes that the veterans
2 27 commemorative property to be sold, traded, or transferred was
2 28 donated by a veterans organization, the veterans organization
2 29 consents to the sale, trade, or transfer of the veterans
2 30 commemorative property.

2 31 f. If the person is not the owner of the veterans
2 32 commemorative property that is to be sold, traded, or
2 33 transferred, the person is authorized by the owner of such
2 34 veterans commemorative property, or by operation of law other
2 35 than this section, to sell, trade, or transfer the veterans
3 1 commemorative property and to retain and use the proceeds of
3 2 the sale, trade, or transfer.

3 3 3. A person who engages in the sale, trade, or transfer of
3 4 veterans commemorative property without the authorization of
3 5 the department pursuant to this section is guilty of a simple
3 6 misdemeanor.

3 7 4. The department may adopt rules in accordance with
3 8 chapter 17A to administer this chapter.

3 9 EXPLANATION

3 10 Under current Code section 37A.1, subsection 2, a person
3 11 who owns or controls a cemetery where any veterans
3 12 commemorative property has been placed shall not sell, trade,
3 13 or transfer such veterans commemorative property unless the
3 14 state department of veterans affairs authorizes the person to
3 15 do so. The department may authorize the sale, trade, or
3 16 transfer of the veterans commemorative property under specific
3 17 circumstances outlined in Code section 37A.1, subsection 2,
3 18 paragraphs "a" through "f".

3 19 This bill amends the definition of "veterans commemorative
3 20 property" by deleting the requirements that the property be
3 21 over 75 years old and that the property has been placed in a
3 22 cemetery. The bill therefore expands the prohibition on the
3 23 sale of veterans commemorative property to all owners or
3 24 controllers of property where veterans commemorative property
3 25 of any age is placed and allows the department to regulate any
3 26 such transactions. The bill also deletes the definition of
3 27 "cemetery".

3 28 LSB 5377DP 82

3 29 md/rj/8